IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 19TH MARCH 2007 / 28TH PHALGUNA 1928

Crl.Rev.Pet.No. 768 of 2006(A)

CRA.639/2005 of ADDL.SESSIONS COURT, KOZHIKODE
CMP.1210/2005 of JUDL. MAGISTRATE OF FIRST CLASS, KUNNAMANGALAM

.....

REVN. PETITIONER: APPELLANT/PETITIONER

AMINA, W/O.DASAN,
FATHIMA MANZIL, CHERATHEDUKAYIL,
KUTTIKATTOOR AMSOM DESOM, KOZHIKODE DISTRICT.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENTS: COMPLAINANT AND STATE

STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.C.M.KAMAPPU

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 19/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J

==========

CRL. R.P. NO. 768 OF 2006 A

==========

Dated this the 19th day of March 2007

O R D E R

The revision petitioner is aggrieved by the order of the courts below rejecting her application to release the property from attachment. According to the revision petitioner, the porceedings in C.C. No. 616/1999 taken up against her was with respect to the offences under Sections 447, 427, 506(ii) and 109 r/w Section 34 of the Indian Penal Code. It is submitted that she could not be present in the court on the relevant posting dates as she was abroad. Sections 82 and 83 steps were taken and the property was attached on 16.11.1998. She surrendered before the court and after trial she was acquitted on 07.04.2000. She has filed an application to lift the attachment on 19.04.2005. The courts below have dismissed the application.

2. I find that the courts below have dismissed the application on the premise that the petitioner ought to have applied within two years as per section 85(3) Cr.P.C. I find that

section 85(3) only stipulates that the person appears voluntarily within two years from the date of attachment or is apprehended or brought before the court the property can be freed from attachment etc. In the circumstances and in view of the undisputed fact that the petitioner had surrendered within two years from the date of the attachment I find that there is no justification for continuing with the attachment. Hence the attachment of the property of the revision petitioner shall stand lifted.

The Crl. R.P is disposed of accordingly.

K.R. UDAYABHANU, JUDGE.

RV